



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,783	06/01/2001	Christopher O. Morgan	00-1745	1566

7590 02/26/2002

Kaardal & Associates, PC  
Attn: Ivar M. Kaardal  
3500 South First Ave. Circle - Suite 250  
Sioux Falls, SD 57105-5802

EXAMINER

PRINCE, FRED G

ART UNIT	PAPER NUMBER
----------	--------------

1724

2

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/871,783

Applicant(s)

MORGAN, CHRISTOPHER O.

Examiner

Fred G. Prince

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, and 8 is/are rejected.
- 7) ☐ Claim(s) 5, 7 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Orensten et al.

Orensten et al., directed toward an apparatus for cleaning an aquarium, teach an intake section (39, 49) connected to an inlet portion of a pump (11), an outlet tube (23) connected to an outlet port to the pump for removing dirty water from a fish tank (10), wherein the pump is a submersible pump (col. 3, lines 28-33) electrically driven via an electric motor (col. 4, lines 64-68) and an electric cord (41) and the outlet tube has an exit end for expelling the dirty water (Fig. 2).

3. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orensten et al. in view of Holt.

Orensten et al. is described above. Orensten et al. do not disclose a gravel screen over an intake section.

Holt, also directed toward an apparatus for cleaning an aquarium, teaches providing a screen (6) over an intake to prevent solids, which would appear to include gravel, from entering a pump (col. 1, lines 20-31).

Art Unit: 1724

It would have been obvious for the skilled artisan to have provided the apparatus of Orensten et al. with a screen over the intake section in order to prevent gravel from entering the pump inlet, as suggested by Holt. Clearly, the skilled artisan would be motivated to prevent solids from contacting/damaging components of the pump assembly.

***Allowable Subject Matter***

4. Claim 10 is allowed.
5. Claims 5, 7, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter:

Per claim 5, while claims 1 and 4 are not patentable, as explained above, in the examiner's opinion, the prior art fails to teach or fairly suggest providing an aquarium cleaner with a cleaner head pivotally coupled to an intake tube.

Per claim 7, in the examiner's opinion, the prior art fails to teach or render obvious providing the intake portion and the apparatus of claim 6, which includes all the elements of claim 1, with a flow valve and a tube member pivotally connected to a cleaning head.

Per claim 9, while it is known in the art to use a reversible pump (see US Pat No 5,131,821 to Marioni et al.), in the examiner's opinion, the prior art fails to teach or fairly

Art Unit: 1724

suggest providing the invention of claim 1 with a reversible pump for facilitating filling of the tank with clean water after the tank has been cleaned.

Per claim 10, while it is known in the art to provide an apparatus with an intake section connected to an inlet portion of a pump, an outlet tube connected to an outlet port on the pump for removing dirty water from a fish tank, wherein the pump is a submersible pump electrically driven via an electric motor and an electric cord and the outlet tube has an exit end for expelling the dirty water (see Orensten et al.), and to provide a screen over an intake for an aquarium cleaner (see Holt) and a reversible pump for a cleaner (see Marioni et al.), in the examiner's opinion, the prior art fails to teach or fairly suggest an apparatus combining all of the above features in combination with a cleaning head pivotally coupled to an intake tube and a flow valve on a flexible tube member, wherein the pump is reversible to facilitate filling of the tank.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred G. Prince whose telephone number is (703) 306-9169. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Simmons can be reached on (703) 308-1972. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

Application/Control Number: 09/871,783

Page 5

Art Unit: 1724

872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Fred Prince*  
Fred Prince  
Patent Examiner  
Art Unit 1724  
February 22, 2002